

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

DIEGO RIVERA,

Petitioner,

v.

LAUREL HARRY, et al.,

Respondents.

CIVIL ACTION

NO. 20-3990-KSM

ORDER

AND NOW, this 10th day of January, 2022, upon consideration of the Petition for a Writ of Habeas Corpus (Doc. No. 1), the Report and Recommendation of Magistrate Judge Richard A. Lloret (Doc. No. 11), Petitioner's Objections to the Magistrate Judge's Report and Recommendation (Doc. No. 13), Petitioner's Supplemental Objections to the Report and Recommendation of the Magistrate-Judge (Doc. No. 20), Respondents' Response to Rivera's Objections (Doc. No. 24), and Petitioner's Second Supplemental Objections to the Commonwealth's First Response to Petitioner's First Set of Supplemental Objections to the Report and Recommendation of the Magistrate-Judge (Doc. No. 26), it is **ORDERED** as follows:

1. Based on Petitioner's objections, the Court **DECLINES** to adopt the Report and Recommendation as to Petitioner's ineffective assistance of counsel claims (Counts 1 and 2) and **REMANDS** to Magistrate Judge Richard A. Lloret to determine whether the Court should hold an evidentiary hearing on these claims.

2. The Court **APPROVES** and **ADOPTS** the Report and Recommendation with respect to Petitioner's claim that he did not receive a full and fair PCRA hearing (Count 3) and

this claim is **DISMISSED** with prejudice.

3. There is no probable cause to issue a certificate of appealability as to Petitioner's claim that he did not receive a full and fair PCRA hearing (Count 3).

IT IS SO ORDERED.

/s/ Karen Spencer Marston

KAREN SPENCER MARSTON, J.